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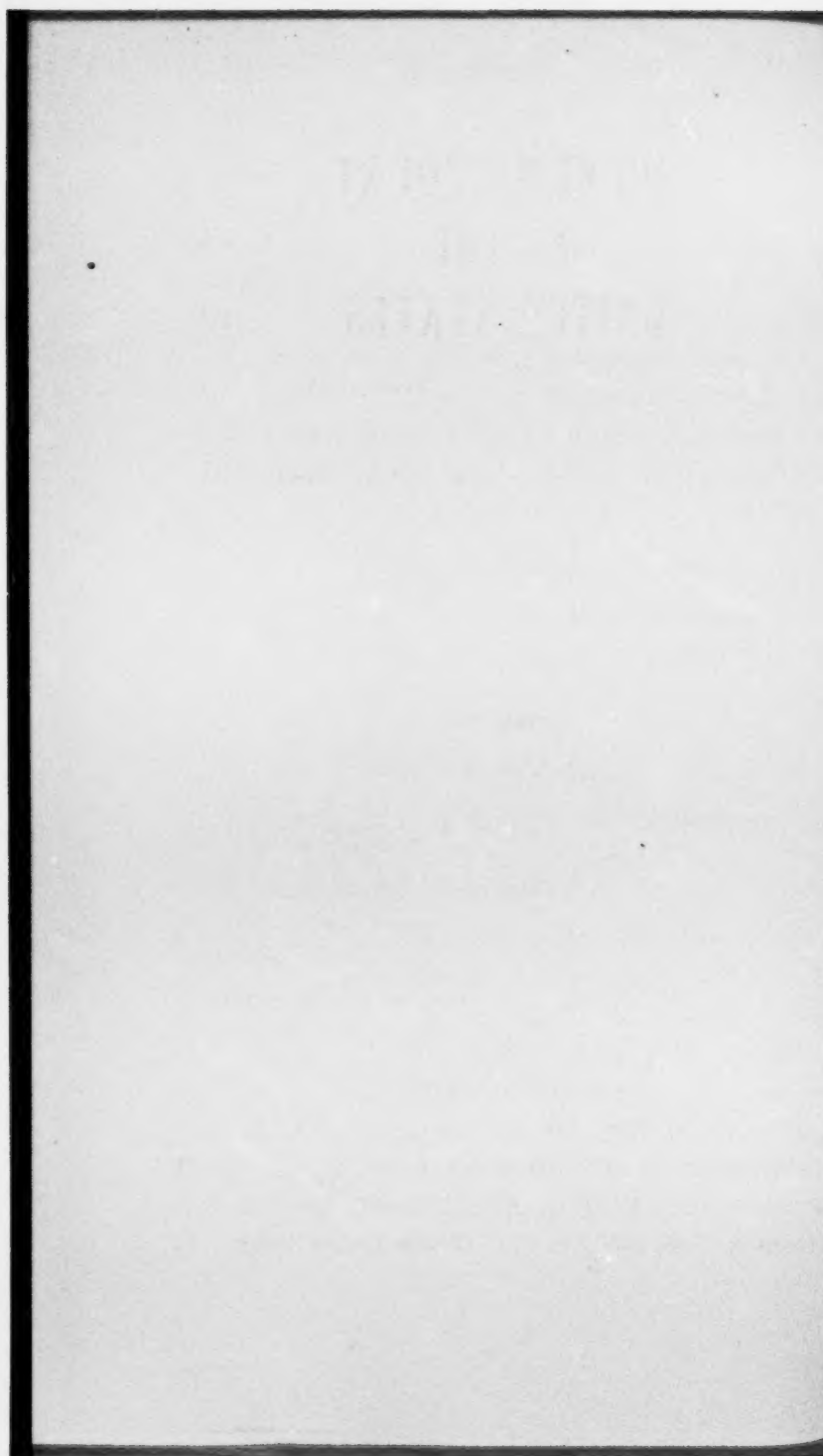
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No. _____

**SUPREME COURT
OF THE
UNITED STATES**

Term, 1942

**WILLIAM T. BRADFORD AND BEN F. BRADFORD,
Versus
UNITED STATES OF AMERICA.**

PETITION FOR WRIT OF CERTIORARI

TO THE HONORABLE THE CHIEF JUSTICE AND
ASSOCIATE JUSTICES OF THE SUPREME COURT OF
THE UNITED STATES:

The petitioners, WILLIAM T. BRADFORD and
BEN F. BRADFORD, citizens of the United States, domiciled in the State of Louisiana, respectfully bring this their application for a writ of certiorari to review the final judgment of the United States Circuit Court of Appeals for the Fifth Circuit in this criminal case.

OPINION BELOW

The petitioners were convicted in the District Court of the United States for the Western District of Louisiana for violating the Mail Fraud Statute, (Section 215, Criminal Code; 18 U. S. C. A., 338). WILLIAM T.

BRADFORD was sentenced to serve a term of two (2) years, and BEN F. BRADFORD a term of three (3) years at Atlanta, Georgia. They were originally indicted on five (5) counts and convicted on Count One, and found not guilty on the other four (4) counts. Petitioners therefore took their appeals to the United States Circuit Court for the Fifth Circuit, where judgment was rendered affirming their conviction on July 9, 1942 (129 Federal Reporter, August 24, 1942, Page 274), Within the delays allowed by law, petitioners filed a petition for a rehearing in the said United States Circuit Court of Appeals for the Fifth Circuit, which was denied on September 17, 1942.

That on the 21st day of September, A. D., 1942 a stay of mandate was ordered by the United States Circuit Court of Appeals for the Fifth Circuit for a period of thirty (30) days from October 17, 1942 to enable these petitioners to apply to this Honorable Court for a writ of certiorari to review said judgment of the United States Circuit Court of Appeals for the Fifth Circuit.

STATUTE INVOLVED

The statute under which defendants were convicted (Sec. 215, Criminal Code; Title 18, U. S. C. A. 338) reads in part, as follows:

"Whoever, having devised or intended to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, ***shall, for

the purpose of executing such scheme or artifice or attempting so to do, place, or cause to be placed, any letter, postal card, package, writing circular, pamphlet, or advertisement, whether addressed to any person residing within or outside the United States, in any post office, or station thereof, or street or other letter box of the United States, or authorized depository for mail matter, to be sent or delivered by the post office establishment of the United States, or shall take or receive any such thereform, whether mailed within or without the United States, or shall knowingly cause to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such letter, postal card, package, writing, circular, pamphlet or advertisement, shall be fined not more than \$1,000, or imprisonment not more than five years, or both." (R. S. Sec. 5480; Mar. 2, 1889, c. 393, Sec. 1, 25 Stat. 873; Mar. 4, 1909, c. 321, Sec. 215, 35 Stat. 1130.)

JURISDICTION

The jurisdiction of this Honorable Court is invoked under paragraph (a) of Section 240 of the Judicial Code as amended (section 347, Title 28 U. S. C. A.), making it competent for this Court to review by certiorari any case, civil or criminal, in a circuit court of appeals; and the application is made within thirty (30) days after

entry of judgment, as required by Rule XI of this Honorable Court, promulgated May 7, 1934, and in the manner required by Rule 38 of this Honorable Court.

SUMMARY STATEMENT OF MATTER INVOLVED

The indictment in this case charged in Count One on which the defendants were convicted that because of the political influence of W. T. BRADFORD, a member of the Louisiana Legislature, and BEN F. BRADFORD, Commissioner of Finance of the City of Alexandria, they entered into a scheme with Monte E. Hart to defraud the City of Alexandria by purchasing city buses at a higher price than they could have bought them, and that they received the sum of Two Thousand & No/100 (\$2000.00) Dollars paid to W. T. BRADFORD and Nine Hundred & No/100 (\$900.00) Dollars paid to BEN F. BRADFORD.

The indictment charged that in furtherance of the scheme to defraud the City of Alexandria they caused to be mailed a check for Thirty-Four Thousand Six Hundred Nine & 02/100 (\$34,609.02) Dollars drawn by the Dunnam Motor Company of Alexandria to the Transit Bus Corporation in the City of New Orleans; it is on this mailing that they relied for a conviction on Count One of the indictment.

QUESTIONS PRESENTED

There are several serious questions to be presented in our petition for a writ of certiorari. Many of these questions are presented in our Assignments of Error in

our petition for a rehearing to the United States Circuit Court of Appeals. The Court held in its opinion that twelve (12) of the Assignments of Error without merit enough to warrant special attention.

Assignment of Error # 2 which covered the overruling of a motion for a directed verdict at the close of the Government's case, we think deserved special attention. The same is true of our Assignment of Error # 3 which covered the motion for a directed verdict at the close of all the evidence. Assignment of Error # 8, we feel was most serious, which was based on the refusal to allow Don Moriarity to testify on a motion for a new trial for the purpose of showing that the evidence of the principal government witness, L. O. Taylor, was grossly erroneous. Assignment of Error # 9 was based on the proposition that only (11) of the jurors who tried the case were drawn from the veniremen which the Jury Commission had drawn, and that one of the jurors who served was not drawn by the Jury Commission.

REASONS RELIED ON FOR ALLOWANCE OF WRIT

The reasons relied on for the allowance of a writ of certiorari are covered by the Assignments of Error above mentioned.

1. That the constitutional and statutory rights of petitioners have been infringed by the conviction for using, or causing the mails to be used in furtherance of a scheme to defraud, when the mailing charged was

proven to have been made after the transaction was closed and consummated.

2. That the constitutional and statutory rights of the petitioners have been infringed by conviction for using, or causing the mails to be used in furtherance of a scheme to defraud, when the Court overruled a motion for a directed verdict at the close of all the evidence in the case.

3. The constitutional rights of petitioners were denied, when the Court failed to set aside the verdict of guilt, when it was proven on motion in arrest of judgment that only eleven (11) of the jurors who convicted the accused were qualified jurors.

4. That the constitutional and statutory rights of the petitioners have been infringed by a conviction for using or causing the mails to be used in furtherance of a scheme to defraud, as a result of the affirmation of the entire verdict and sentence of the trial court by the Circuit Court of Appeals for the Fifth Circuit.

TRANSCRIPT ANNEXED

The record having been printed for the use of the court below (Rule 38, paragraph 7), and the necessary copies so printed being furnished, your petitioners now file herewith ten copies of the record as printed below, together with the proceedings and opinion in the Honorable Circuit Court of Appeals for the Fifth Circuit, and due certificate thereon of the Clerk of said Court.

